OLC: 78-3579/11 9.JAN 1979

MEMORANDUM FOR: Director of Central Intelligence

FROM: Frederick P. Hitz

Legislative Counsel

SUBJECT: Fiscal Year 1980 Intelligence Authorization

Bill

- 1. Action Requested: Your signature on the attached letter transmitting the draft FY 1980 Intelligence Authorization Bill to the Director of the Office of Management and Budget.
- 2. Background: Public Law 95-370, the "Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979," was the first specific annual appropriations authorization for intelligence. An authorization bill for FY 1980 has been drafted by my Legislation Staff, in conjunction with the Community and Legislative Liaison Office of the Resource Management Staff, and in consultation with appropriate Agency offices. National Foreign Intelligence Community principals and legislative affairs officers were given an opportunity to participate in the development of the legislative program for the first session of the 96th Congress, and to comment on the draft authorization bill. The bill must now be submitted to the Office of Management and Budget.
- 3. Several specific items should be noted in connection with what the draft authorization bill does and does not contain:
 - --Consideration was given to retitling the bill as the "National Foreign Intelligence Authorization Act," and to making Title I read "National Foreign Intelligence Program." These changes would bring the bill more into line with the terminology of Section 1-602 of E.O. 12036 (National Foreign Intelligence Program Budget). The authorization of funds for intelligence-related activities under such a heading, however, might give



rise to an appearance of conflict with the specific exclusion of tactical intelligence from the Executive Order's definition of the National Foreign Intelligence Program [4-210(e)], and could raise questions as to whether you were attempting to take sides in the still-unresolved SSCI-Senate Armed Services Committee jurisdictional controversy about intelligence-related activities. Changing the titles and eliminating the reference to intelligence-related activities would be opposed by the HPSCI and would be likely to interject you into jurisdictional fights in both houses over a separate intelligence-related activities authorization. It would appear preferable to continue to live with some semantic inconsistency between the authorization bill and the Executive Order.

--Section 101(b) of the draft bill notes that the classified annex to the joint explanatory statement of the Conference Committee should be deemed to reflect "the intent of the Congress." This formulation is preferable to the FY 1979 Act, which declared that the classified annex should be deemed to reflect "the final action of the Congress."

-- As in FY 1979, Title II of the draft bill contains a separate authorization for the Intelligence Community The Inspector General and the Office of General Counsel have questioned whether use of the term "Intelligence Community Staff" continues to be appropriate in light of the reorganization which created the Resource Management and Collection Tasking Staffs. An alternative formulation for Title II would be "Intelligence Community Staff Elements in the Office of the Director of Central Intelligence," with the accompanying Sectional Analysis and Explanation making clear that the reference was to the Resource Management and Collection Tasking Staffs. The alternative formulation might be more technically correct, but use of "Intelligence Community Staff" helps provide flexibility in allocating the appropriation between the RMS and CTS, and retention of the term is favored by the Resource Management Staff.

--The draft bill contains as Titles IV, V and VI our three departmental-level legislative program initiatives: Educational Travel Benefits, Death Gratuities, and revised Firearms Authority. Consultations with SSCI and HPSCI staff indicate that there should be Congressional receptivity to use of the authorization bill as the legislative vehicle for these items.

-- The draft bill does not contain two Presidentiallevel initiatives that were included in earlier drafts: a Freedom of Information Act Amendment, and legislation to provide criminal penalties for the unauthorized . disclosure of the identities of certain individuals engaged in foreign intelligence activities. Reasons for not going forward with these initiatives in the authorization bill include the need for further refinement of specific statutory language, the Justice Department's pending study of the feasibility of a comprehensive legislative proposal on unauthorized disclosures, and signals both from the Office of Management and Budget and the Congressional oversight committee staffs of opposition to use of the authorization bill as the vehicle for these kinds of legislative initiatives. My Legislation Staff plans to have an FOIA proposal ready to go forward as a separate bill no later than 28 February; timing of our initiative on unauthorized disclosures will depend on the outcome of the Justice Department project. The attached letter informs OMB Director McIntyre that you intend to pursue these legislative program items outside the context of the authorization bill.

- 4. Staff Position: Appropriate Agency elements and the Resource Management Staff have been consulted in connection with the draft bill, and the Intelligence Community has had opportunity for comment.
- 5. Recommendation: That you sign the attached letter to OMB Director McIntyre transmitting the FY 1980 authorization bill.

SIGNED

Frederick P. Hitz

Attachments:
As Stated

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